

HOUSE BILL No. 4916

September 8, 2011, Introduced by Reps. Tlaib, Irwin, Hovey-Wright, Hobbs, Stapleton, Olumba, Durhal, Nathan and Brown and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 78m (MCL 211.78m), as amended by 2006 PA 498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78m. (1) Not later than the first Tuesday in July,
2 immediately succeeding the entry of judgment under section 78k
3 vesting absolute title to tax delinquent property in the
4 foreclosing governmental unit, this state is granted the right of
5 first refusal to purchase property at the greater of the minimum
6 bid or its fair market value by paying that amount to the
7 foreclosing governmental unit if the foreclosing governmental unit
8 is not this state. If this state elects not to purchase the
9 property under its right of first refusal, a city, village, or

1 township may purchase for a public purpose any property located
2 within that city, village, or township set forth in the judgment
3 and subject to sale under this section by payment to the
4 foreclosing governmental unit of the minimum bid. If a city,
5 village, or township does not purchase that property, the county in
6 which that property is located may purchase that property under
7 this section by payment to the foreclosing governmental unit of the
8 minimum bid. If property is purchased by a city, village, township,
9 or county under this subsection, the foreclosing governmental unit
10 shall convey the property to the purchasing city, village,
11 township, or county within 30 days. If property purchased by a
12 city, village, township, or county under this subsection is
13 subsequently sold for an amount in excess of the minimum bid and
14 all costs incurred relating to demolition, renovation,
15 improvements, or infrastructure development, the excess amount
16 shall be returned to the delinquent tax property sales proceeds
17 account for the year in which the property was purchased by the
18 city, village, township, or county or, if this state is the
19 foreclosing governmental unit within a county, to the land
20 reutilization fund created under section 78n. Upon the request of
21 the foreclosing governmental unit, a city, village, township, or
22 county that purchased property under this subsection shall provide
23 to the foreclosing governmental unit without cost information
24 regarding any subsequent sale or transfer of the property. This
25 subsection applies to the purchase of property by this state, a
26 city, village, or township, or a county prior to a sale held under
27 subsection (2).

1 (2) Subject to subsection (1), beginning on the third Tuesday
2 in July immediately succeeding the entry of the judgment under
3 section 78k vesting absolute title to tax delinquent property in
4 the foreclosing governmental unit and ending on the immediately
5 succeeding first Tuesday in November, the foreclosing governmental
6 unit, or its authorized agent, at the option of the foreclosing
7 governmental unit, shall hold at least 2 property sales at 1 or
8 more convenient locations at which property foreclosed by the
9 judgment entered under section 78k shall be sold by auction sale,
10 which may include an auction sale conducted via an internet
11 website. Notice of the time and location of the sales shall be
12 published not less than 30 days before each sale in a newspaper
13 published and circulated in the county in which the property is
14 located, if there is one. If no newspaper is published in that
15 county, publication shall be made in a newspaper published and
16 circulated in an adjoining county. Each sale shall be completed
17 before the first Tuesday in November immediately succeeding the
18 entry of judgment under section 78k vesting absolute title to the
19 tax delinquent property in the foreclosing governmental unit.
20 Except as provided in subsection (5), property shall be sold to the
21 person bidding the highest amount above the minimum bid. **BEGINNING**
22 **JANUARY 1, 2012, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A**
23 **FORECLOSING GOVERNMENTAL UNIT MAY REQUIRE THAT BEFORE A PERSON IS**
24 **ELIGIBLE TO BID ON PROPERTY UNDER THIS SECTION, THAT PERSON SHALL**
25 **SUBMIT AN AFFIDAVIT, ATTESTING THAT THE PERSON, OR ANY ENTITY**
26 **CONTROLLED BY OR ASSOCIATED WITH THAT PERSON, UNLESS THAT PERSON**
27 **OWNS 5% OR LESS OF THAT ENTITY, DOES NOT OWE ANY DELINQUENT TAXES**

1 ON ANY PROPERTY LOCATED IN THIS STATE. IF A LOCAL TAX COLLECTING
2 UNIT REQUIRES AN AFFIDAVIT FOR ELIGIBILITY TO BID ON PROPERTY UNDER
3 THIS SECTION, AN AFFIDAVIT SHALL BE REQUIRED OF ALL PERSONS BIDDING
4 ON PROPERTY UNDER THIS SECTION UNLESS THAT PROPERTY IS THAT
5 PERSON'S PRINCIPAL RESIDENCE. IF THE FORECLOSING GOVERNMENTAL UNIT
6 REQUIRES AN AFFIDAVIT, THE AFFIDAVIT SHALL BE RECORDED WITH THE
7 REGISTER OF DEEDS FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED.
8 THE FORECLOSING GOVERNMENTAL UNIT SHALL NOT REQUIRE AN AFFIDAVIT IF
9 THE PROPERTY SUBJECT TO THE BID IS THE PRINCIPAL RESIDENCE OF THE
10 PERSON BIDDING ON THAT PROPERTY. IF IT IS DETERMINED THAT A PERSON
11 WHO HAS SUBMITTED AN AFFIDAVIT OWES DELINQUENT TAXES ON PROPERTY IN
12 THIS STATE, THE FORECLOSING GOVERNMENTAL UNIT SHALL PLACE A LIS
13 PENDENS ON THE PROPERTY SOLD TO THAT PERSON UNDER THIS SECTION
14 PURSUANT TO CHAPTER 27 OF THE REVISED JUDICATURE ACT OF 1961, 1961
15 PA 236, MCL 600.2701 TO 600.2735, AND THAT PERSON IS GUILTY OF
16 PERJURY, A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
17 1 YEAR OR BY A FINE OF NOT MORE THAN \$5,000.00, OR BOTH. The
18 foreclosing governmental unit may sell parcels individually or may
19 offer 2 or more parcels for sale as a group. The minimum bid for a
20 group of parcels shall equal the sum of the minimum bid for each
21 parcel included in the group. The foreclosing governmental unit may
22 adopt procedures governing the conduct of the sale and may cancel
23 the sale prior to the issuance of a deed under this subsection if
24 authorized under the procedures. The foreclosing governmental unit
25 may require full payment by cash, certified check, or money order
26 at the close of each day's bidding. Not more than ~~30~~60 days after
27 the date of a sale under this subsection, the foreclosing

1 governmental unit shall convey the property by deed to the person
2 bidding the highest amount above the minimum bid. The deed shall
3 vest fee simple title to the property in the person bidding the
4 highest amount above the minimum bid, unless the foreclosing
5 governmental unit discovers a defect in the foreclosure of the
6 property under sections 78 to 78/. If this state is the foreclosing
7 governmental unit within a county, the department of natural
8 resources shall conduct the sale of property under this subsection
9 and subsections (4) and (5) on behalf of this state.

10 (3) For sales held under subsection (2), after the conclusion
11 of that sale, and prior to any additional sale held under
12 subsection (2), a city, village, or township may purchase any
13 property not previously sold under subsection (1) or (2) by paying
14 the minimum bid to the foreclosing governmental unit. If a city,
15 village, or township does not purchase that property, the county in
16 which that property is located may purchase that property under
17 this section by payment to the foreclosing governmental unit of the
18 minimum bid.

19 (4) If property is purchased by a city, village, township, or
20 county under subsection (3), the foreclosing governmental unit
21 shall convey the property to the purchasing city, village, or
22 township within 30 days.

23 (5) All property subject to sale under subsection (2) shall be
24 offered for sale at not less than 2 sales conducted as required by
25 subsection (2). The final sale held under subsection (2) shall be
26 held not less than 28 days after the previous sale under subsection
27 (2). At the final sale held under subsection (2), the sale is

1 subject to the requirements of subsection (2), except that the
2 minimum bid shall not be required. However, the foreclosing
3 governmental unit may establish a reasonable opening bid at the
4 sale to recover the cost of the sale of the parcel or parcels.

5 (6) On or before December 1 immediately succeeding the date of
6 the sale under subsection (5), a list of all property not
7 previously sold by the foreclosing governmental unit under this
8 section shall be transferred to the clerk of the city, village, or
9 township in which the property is located. The city, village, or
10 township may object in writing to the transfer of 1 or more parcels
11 of property set forth on that list. On or before December 30
12 immediately succeeding the date of the sale under subsection (5),
13 all property not previously sold by the foreclosing governmental
14 unit under this section shall be transferred to the city, village,
15 or township in which the property is located, except those parcels
16 of property to which the city, village, or township has objected.
17 Property located in both a village and a township may be
18 transferred under this subsection only to a village. The city,
19 village, or township may make the property available under the
20 urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, or for
21 any other lawful purpose.

22 (7) If property not previously sold is not transferred to the
23 city, village, or township in which the property is located under
24 subsection (6), the foreclosing governmental unit shall retain
25 possession of that property. If the foreclosing governmental unit
26 retains possession of the property and the foreclosing governmental
27 unit is this state, title to the property shall vest in the land

1 bank fast track authority created under section 15 of the land bank
2 fast track act, 2003 PA 258, MCL 124.765.

3 (8) A foreclosing governmental unit shall deposit the proceeds
4 from the sale of property under this section into a restricted
5 account designated as the "delinquent tax property sales proceeds
6 for the year ____". The foreclosing governmental unit shall
7 direct the investment of the account. The foreclosing governmental
8 unit shall credit to the account interest and earnings from account
9 investments. Proceeds in that account shall only be used by the
10 foreclosing governmental unit for the following purposes in the
11 following order of priority:

12 (a) The delinquent tax revolving fund shall be reimbursed for
13 all taxes, interest, and fees on all of the property, whether or
14 not all of the property was sold.

15 (b) All costs of the sale of property for the year shall be
16 paid.

17 (c) Any costs of the foreclosure proceedings for the year,
18 including, but not limited to, costs of mailing, publication,
19 personal service, and outside contractors shall be paid.

20 (d) Any costs for the sale of property or foreclosure
21 proceedings for any prior year that have not been paid or
22 reimbursed from that prior year's delinquent tax property sales
23 proceeds shall be paid.

24 (e) Any costs incurred by the foreclosing governmental unit in
25 maintaining property foreclosed under section 78k before the sale
26 under this section shall be paid, including costs of any
27 environmental remediation.

1 (f) If the foreclosing governmental unit is not this state,
2 any of the following:

3 (i) Any costs for the sale of property or foreclosure
4 proceedings for any subsequent year that are not paid or reimbursed
5 from that subsequent year's delinquent tax property sales proceeds
6 shall be paid from any remaining balance in any prior year's
7 delinquent tax property sales proceeds account.

8 (ii) Any costs for the defense of title actions.

9 (iii) Any costs incurred in administering the foreclosure and
10 disposition of property forfeited for delinquent taxes under this
11 act.

12 (g) If the foreclosing governmental unit is this state, any
13 remaining balance shall be transferred to the land reutilization
14 fund created under section 78n.

15 (h) In 2008 and each year after 2008, if the foreclosing
16 governmental unit is not this state, not later than June 30 of the
17 second calendar year after foreclosure, the foreclosing
18 governmental unit shall submit a written report to its board of
19 commissioners identifying any remaining balance and any contingent
20 costs of title or other legal claims described in subdivisions (a)
21 through (f). All or a portion of any remaining balance, less any
22 contingent costs of title or other legal claims described in
23 subdivisions (a) through (f), may subsequently be transferred into
24 the general fund of the county by the board of commissioners.

25 (9) Two or more county treasurers of adjacent counties may
26 elect to hold a joint sale of property as provided in this section.
27 If 2 or more county treasurers elect to hold a joint sale, property

1 may be sold under this section at a location outside of the county
2 in which the property is located. The sale may be conducted by any
3 county treasurer participating in the joint sale. A joint sale held
4 under this subsection may include or be an auction sale conducted
5 via an internet website.

6 (10) The foreclosing governmental unit shall record a deed for
7 any property transferred under this section with the county
8 register of deeds. The foreclosing governmental unit may charge a
9 fee in excess of the minimum bid and any sale proceeds for the cost
10 of recording a deed under this subsection.

11 (11) As used in this section, "minimum bid" is the minimum
12 amount established by the foreclosing governmental unit for which
13 property may be sold under this section. The minimum bid shall
14 include all of the following:

15 (a) All delinquent taxes, interest, penalties, and fees due on
16 the property. If a city, village, or township purchases the
17 property, the minimum bid shall not include any taxes levied by
18 that city, village, or township and any interest, penalties, or
19 fees due on those taxes.

20 (b) The expenses of administering the sale, including all
21 preparations for the sale. The foreclosing governmental unit shall
22 estimate the cost of preparing for and administering the annual
23 sale for purposes of prorating the cost for each property included
24 in the sale.

25 (12) For property transferred to this state under subsection
26 (1), a city, village, or township under subsection (6) or retained
27 by a foreclosing governmental unit under subsection (7), all taxes

1 due on the property as of the December 31 following the transfer or
2 retention of the property are canceled effective on that December
3 31.

4 (13) For property sold under this section, transferred to this
5 state under subsection (1), a city, village, or township under
6 subsection (6), or retained by a foreclosing governmental unit
7 under subsection (7), all liens for costs of demolition, safety
8 repairs, debris removal, or sewer or water charges due on the
9 property as of the December 31 immediately succeeding the sale,
10 transfer, or retention of the property are canceled effective on
11 that December 31. This subsection does not apply to liens recorded
12 by the department of ~~environmental quality~~ **NATURAL RESOURCES** under
13 this act or the land bank fast track act, 2003 PA 258, MCL 124.751
14 to 124.774.

15 (14) If property foreclosed under section 78k and held by or
16 under the control of a foreclosing governmental unit is a facility
17 as defined under section ~~20101(1)(e)~~ **20101** of the natural resources
18 and environmental protection act, 1994 PA 451, MCL 324.20101, prior
19 to the sale or transfer of the property under this section, the
20 property is subject to all of the following:

21 (a) Upon reasonable written notice from the department of
22 ~~environmental quality~~ **NATURAL RESOURCES**, the foreclosing
23 governmental unit shall provide access to the department of
24 ~~environmental quality~~ **NATURAL RESOURCES**, its employees,
25 contractors, and any other person expressly authorized by the
26 department of ~~environmental quality~~ **NATURAL RESOURCES** to conduct
27 response activities at the foreclosed property. Reasonable written

1 notice under this subdivision may include, but is not limited to,
 2 notice by electronic mail or facsimile, if the foreclosing
 3 governmental unit consents to notice by electronic mail or
 4 facsimile prior to the provision of notice by the department of
 5 ~~environmental quality~~ **NATURAL RESOURCES**.

6 (b) If requested by the department of ~~environmental quality~~
 7 **NATURAL RESOURCES** to protect public health, safety, and welfare or
 8 the environment, the foreclosing governmental unit shall grant an
 9 easement for access to conduct response activities on the
 10 foreclosed property as authorized under chapter 7 of the natural
 11 resources and environmental protection act, 1994 PA 451, MCL
 12 324.20101 to ~~324.20519~~ **324.20302**.

13 (c) If requested by the department of ~~environmental quality~~
 14 **NATURAL RESOURCES** to protect public health, safety, and welfare or
 15 the environment, the foreclosing governmental unit shall place and
 16 record deed restrictions on the foreclosed property as authorized
 17 under chapter 7 of the natural resources and environmental
 18 protection act, 1994 PA 451, MCL 324.20101 to ~~324.20519~~ **324.20302**.

19 (d) The department of ~~environmental quality~~ **NATURAL RESOURCES**
 20 may place an environmental lien on the foreclosed property as
 21 authorized under section 20138 of the natural resources and
 22 environmental protection act, 1994 PA 451, MCL 324.20138.

23 (15) If property foreclosed under section 78k and held by or
 24 under the control of a foreclosing governmental unit is a facility
 25 as defined under section ~~20101(1)(e)~~ **20101** of the natural resources
 26 and environmental protection act, 1994 PA 451, MCL 324.20101, prior
 27 to the sale or transfer of the property under this section, the

1 department of ~~environmental quality~~ **NATURAL RESOURCES** shall request
2 and the foreclosing governmental unit shall transfer the property
3 to the state land bank fast track authority created under section
4 15 of the land bank fast track act, 2003 PA 258, MCL 124.765, if
5 all of the following apply:

6 (a) The department of ~~environmental quality~~ **NATURAL RESOURCES**
7 determines that conditions at a foreclosed property are an acute
8 threat to the public health, safety, and welfare, to the
9 environment, or to other property.

10 (b) The department of ~~environmental quality~~ **NATURAL RESOURCES**
11 proposes to undertake or is undertaking state-funded response
12 activities at the property.

13 (c) The department of ~~environmental quality~~ **NATURAL RESOURCES**
14 determines that the sale, retention, or transfer of the property
15 other than under this subsection would interfere with response
16 activities by the department of ~~environmental quality~~ **NATURAL**
17 **RESOURCES**.